

On motion of Senator Piner, the Senate adjourned until to-morrow at 9 o'clock A. M.

### EIGHTY-THIRD DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, July 25, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

The President gave notice that he would add additional reasons for his ruling on yesterday in overruling the point of order made by Senator Smith.

Senator Brady withdrew his motion of yesterday placing Senators in contempt.

The President, after reading their captions, signed the following bills:

House Bill No. 196—"An Act to provide for the publication of certain decisions of the Court of Appeals."

House Bill No. 239—"An Act to incorporate the city of Galveston and to grant a new charter."

Senator Hobby, Chairman of Judiciary Committee No. 1, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred House Bill No. 233, "An Act prescribing the times of holding the District Courts in the Second Judicial District," have considered the same, and a majority of the committee have instructed me to report the bill back and recommend its passage.

HOBBY, *Chairman.*

Senator Edwards, from Judiciary Committee No. 1, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

A majority of your Judiciary Committee No. 1 instruct me to report back Senate Bill No. 317, "An Act to incorporate the Union Protection and Friendship Society of Galveston," and recommend that the same do pass, with the accompanying amendment:

"SEC. 9. That the necessity of organizing said society at once creates a public necessity and emergency that requires, and it is hereby declared, that this act take effect from and after its passage."

EDWARDS, *for Committee.*

Senator Storey, from Judiciary Committee No. 1, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 362, "An Act to define the duties of County Attorneys," have had the same under consideration, and have instructed me to report it back to the Senate and recommend its passage.

STOREY, *for Committee.*

The President took up the following House Bills, and referred them to appropriate committees:

House Bill No. 24—"An Act defining what money and property is

subject to taxation and exemption, and the mode of listing the same."

Referred to the Committee on Finance.

House Bill No. 414—"An Act to provide for the manner of filling vacancies in the office of District or County Clerks in such counties as have elected but one Clerk, and to validate their acts."

Referred to Judiciary Committee No. 1.

House Joint Resolution No. 418—"To grant temporary possession to James Murphy of lots Nos. 4, 5 and 6, in block No. 158, in the city of Austin."

Referred to the Committee on State Affairs.

House Joint Resolution No. 281—"To grant limited use of a certain tract or lot of land in the city of Austin, to the Methodist Episcopal Church, South, of said city."

Referred to Judiciary Committee No. 2.

House Bill No. 186—"An Act to amend an act entitled, 'An Act to provide for the organization of the State Lunatic Asylum, and for the care and maintenance of the insane,' " approved February 5, 1858.

Referred to the Committee on Asylums.

On motion of Senator McLeary, the rules were suspended, and House Joint Resolution No. 395, "Of condolence to the family of General G. A. Custer," was taken up and passed unanimously.

Senator Smith made the point of order that the motion to postpone bills on the second reading yesterday, only went to place them on the table for the day only.

The President overruled the point of order.

Senate Bill No. 179, "An Act to encourage irrigation and navigation," being unfinished business, was taken up and read third time.

Senator Ball offered the following amendment:

In Section 10, line 8, strike out the word, "same," and insert in lieu thereof the words, "each section."

Adopted.

The bill then passed by the following vote:

YEAS—Senators Brady Brown, Edwards, Ford, Guy, Hobby, Ledbetter, McLeary, McCormick, McCulloch, Motley, Ripetoe, Storey, Thompson, Wortham—15.

NAYS—Senators Blassingame, Douglass, Francis, Grace, Henry J. R., Henry F. M., Martin, Piner—8.

NOT VOTING—Senators Ball, Burton, Carroll, Crain, Moore, Smith, Stephens, Terrell—7.

Senate Bill No. 216, "An Act to establish and provide for the support and maintenance of an efficient system of public free schools," was taken up and read third time.

Senator Edwards offered the following amendment:

Add to Section 51: "All school-houses under the provisions of this act, except those erected and owned by an incorporated town or city, shall be the property of the State of Texas, and shall be subject to the control of the Board of Education, and the County Judge shall designate to which school community or district said house shall be attached, under such regulations as the Board of Education shall prescribe."

Adopted.

Senator Ripetoe offered the following amendment:

Amend Section 19 by striking out, "10," and inserting, "8."

Senator Edwards moved the previous question.

Seconded, but the main question not ordered.

Senator Ripetoe's amendment lost.

Senator Francis offered the following amendment:

In Section 36, lines 7 and 8, strike out "\$1.20," and insert, "\$1.50."

Adopted.

Senator Carroll offered the following amendment:

In Section 45, line 6, strike out the words, "not longer than."

Lost.

Senator Grace offered the following:

Amend Section 33, line 10, after the word, "taught," by inserting the following words, "as nearly as practicable."

Adopted.

The bill then passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Smith, Storey, Terrell, Thompson, Wortham—26.

NAYS—Senators Burton, Ripetoe—2.

NOT VOTING—Senators Crain, Ledbetter, Stephens—3.

Senators Ball and Piner gave notice of protest.

Senate Bill, No. 303, "An Act for the relief of railroad and other internal improvement companies," was taken up as unfinished business.

Senator Brady moved the previous question on the bill.

Senator Storey moved a call of the Senate.

Call seconded.

Senator Douglass raised a point of order, that Senator Storey had risen to a point of order and then moved a call of the Senate, which was out of order.

Roll called on Senator Storey's call of the Senate.

ABSENT—Senators Brown and Crain.

Senator Smith moved that the absentees be excused, and also moved a call of the Senate on his motion.

Seconded.

Roll called.

ABSENT—Senator Crain.

Senator Ball moved that Senator Crain be excused, and also moved the previous question on his motion.

Seconded.

Senator Smith raised a point of order, that his motion should be put first.

Senator Douglass raised the point of order, that Senator Ball's motion took precedence.

The chair decided the point well taken.

The previous question was ordered on Senator Ball's motion, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—17.

NAYS—Senators Burton, Carroll, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell, Thompson—13.

The motion to excuse Senator Crain was then carried by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Francis,

Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Wortham—16.

NAYS—Senators Burton, Carroll, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Ripetoe, Smith, Stephens, Storey, Terrell, Thompson—14.

Senator Hobby moved the previous question on the passage of the bill.

Seconded, and the main question ordered, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—17.

NAYS—Senators Burton, Carroll, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell, Thompson—13.

The bill then passed, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—18.

NAYS—Senators Burton, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell, Thompson—12.

Senators Terrell and McLeary gave notice of a protest to the passage of the bill.

The chair declared that the bill, having received eighteen votes to twelve in the negative, had passed, to take effect ninety days after the adjournment of the Legislature.

Senator Storey raised a point of order that the bill was lost, because the constitutional provision requiring the bill to be read on three several days had not been complied with; that the bill was not read when called up yesterday, nor was it read to-day; and this rule having not been suspended by a four-fifths vote of the Senate, it is lost.

The chair decided the point not well taken.

Senate Bill No. 102, "An Act to amend Article 393, of an act to adopt and establish a penal code for the State of Texas," approved August 28, 1856, was taken up.

Senator Ledbetter moved to postpone the bill temporarily.

Carried.

Senator Smith in the chair.

On motion of Senator Piner, the rules were suspended, and House Joint Resolution No. 382, "To encourage immigration," was taken up.

Read second time, and passed to a third reading.

Senator McLeary moved to further suspend the rules, to place it on its third reading.

Carried by the following vote:

YEAS—Senators Ball, Burton, Carroll, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—23.

NAYS—Senators Blassingame, Martin—2.

NOT VOTING—Senators Brady, Crain, Douglass, Moore, Terrell—5.

Resolution read third time, and passed by the following vote:

YEAS—Ball, Carroll, Crain, Douglass, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McLeary, McCulloch, Moore, Piner, Smith, Stephens, Storey, Wortham—19.

NAYS—Senators Blassingame, Brown, Martin, Ripetoe—4.



NOT VOTING—Senators Brady, Burton, Edwards, Francis, McCormick, Motley, Terrell, Thompson—8.

Senator Hobby moved to suspend the rules, and take up House Bill No. 403, "An Act to provide for the election of a District Attorney in the First Judicial District in the State of Texas."

Carried, bill taken up, read second time, and the amendments of the committee adopted.

Senator Crain offered the following amendment:

In Section 1, after "First Judicial District," insert "Twenty-third Judicial District."

Senator Piner moved a call of the Senate, which was sustained.

Roll called.

ABSENT—Senators Blassingame, Brown, Francis, Ford, Martin, Motley, Stephens, Terrell.—8.

Pending the call the bill went to the table,

On motion of Senator Hobby, the call was suspended.

Senator Crain's amendment was adopted.

Senator Hobby moved a suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS—Senators Ball, Brown, Burton, Carroll, Crain, Douglass, Edwards, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Storey, Terrell, Thompson, Wortham—26.

NAYS—None.

NOT VOTING—Senators Blassingame, Brady, Francis, Ford, Stephens—5.

Bill read third time, and passed by the following vote:

YEAS—Senators Brady, Brown, Carroll, Crain, Edwards, Francis, Guy, Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Moore, Motley, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—21.

NAYS—Senators Douglass, Grace, Henry J. R., Martin, Piner—5.

NOT VOTING—Senators Ball, Blassingame, Burton, Ford, Terrell—5.

On motion of Senator Moore, the rules were suspended, and House Bill No. 377, "An Act to amend Section 27 of 'An Act authorizing the disposition and sale of the University lands,' approved April 8, 1874, and to validate all sales of eighty acres to any one person," was taken up, read second time, and amendments of the committee adopted.

Senator McLeary offered the following amendment:

After the word, "amendatory," on third page, insert, "*and provided, further, that should there be more than eighty acres in land in one body the purchaser shall take the whole, not to exceed one hundred and sixty acres.*"

Adopted.

Senator Terrell offered the following amendment:

"*Provided, further, that nothing in this act shall be construed to permit further sales, under the jurisdiction of an act approved April 8, 1874, entitled, 'An Act amendatory of an act supplementary to an act authorizing the disposition and sale of the University lands,' approved August 30, 1856, approved April 12, 1866, nor under any other act, and no further sales of University lands shall be allowed until further legislation.*"

President in the chair.

Senator Piner rose to a question of privilege and moved to amend the journal of yesterday to show that Senate Bill No. 303, "An Act for the relief of railroads and other internal improvement companies," was read, and moved the previous question on the motion.

Senator McLeary made a point of order, "that a motion to correct the journal could not be entertained until a motion to reconsider the vote adopting the journal should have been adopted," and he referred to Senate Rule No. 12.

The President decided the point of order not well taken.

The previous question, as moved by Senator Piner, was seconded, and the main question ordered by the following vote:

YEAS—Senators Brady, Brown, Carroll, Douglass, Edwards, Ford, Grace, Guy, Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Smith, Stephens, Storey, Terrell, Thompson—22.

NAYS—Senators Ball, Burton, Francis, Henry J. R., Henry F. M., Wortham—6.

NOT VOTING—Senators Crain, Ripetoe—2.

Senator Blassingame was excused from voting.

The motion of Senator Piner to correct the journal of yesterday so as to show that "Senate Bill No. 303 was read third time," was lost by the following vote:

YEAS—Senator Piner—1.

NAYS—Senators Brady, Brown, Burton, Carroll, Douglass, Edwards, Ford, Grace, Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—19.

Senators Ball, Blassingame, Francis, Guy, Henry J. R., Martin, Moore, Motley, Wortham—9.

NOT VOTING—Senators Crain, Ripetoe—2.

A message was received from His Excellency, the Governor.

Senator Piner moved to reconsider the vote passing Senate Bill No. 303, "An Act for the relief of railroad and other internal improvement companies."

Also, moved the previous question on the motion.

Seconded, and the main question ordered, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Wortham—19.

NAYS—Senators Burton, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell, Thompson—10.

NOT VOTING—Senators Crain, Ripetoe—2.

Senator Hobby moved that the bill be placed on its passage.

Also, moved the previous question on his motion, which was seconded.

Senator McCormick moved a call of the Senate.

The Chair declared the motion out of order, the previous question having been seconded.

Senator McCormick raised a point of order that a motion for the call of the Senate is in order until the previous question is seconded by a majority of the Senate.

The President declared the point not well taken.

Senator Storey raised a point of order that the Senate had under consideration House Bill No. 377, "An Act to amend Section 27 of 'An Act au-

thorizing the disposition of the University lands, approved April 8, 1874, and to validate all sales of eighty acres to one person," and without any motion or vote to postpone that bill, the Senator from Denton (Mr. Piner) was allowed, as a privileged question, to introduce his motion to correct the journal, and that being voted down, the Senator from Tyler (Mr. Hobby) was permitted by the Chair to move to reconsider the vote passing Senate Bill No. 303; and all this without any vote of the Senate postponing said House Bill: the consideration of Senate Bill No. 303 is, therefore, out of order.

The Chair declared the point not well taken.

The question recurred on the motion of Senator Piner to reconsider the vote passing Senate Bill No. 303, and it was carried by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—19.

NAYS—Senators Burton, Ford, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—10.

NOT VOTING—Senators Crain, Motley—2.

Senator McLeary moved a call of the Senate, which was seconded.

Roll called.

ABSENT—Senators Crain, Motley—2.

Senator Ball moved to excuse Senator Crain, and moved the previous question on his motion, which was seconded.

Senator Smith made the point of order, "that Senate Bill No. 303 was not before the Senate properly for consideration at this time."

Point of order overruled by the Chair.

Senator Smith appealed from the decision of the Chair, stating "that he did so for the purpose of moving a call of the Senate," which he then proceeded to do.

The Chair ruled, "that it was not in order to move a call of the Senate on an appeal from the decision of the Chair upon a point of order when the previous question has been ordered on the main question."

The decision of the Chair was sustained by the Senate, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Burton, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—19.

NAYS—Senators McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—8.

NOT VOTING—Senators Brown, Carroll, Crain, Motley—4.

The main question on Senator Ball's motion ordered by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—17.

NAYS—Senators Burton, Carroll, Ford, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—11.

NOT VOTING—Senators Crain, Grace, Motley—3.

Senator Crain was excused by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—18.



NAYS—Senators Burton, Carroll, Ford, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—11.

NOT VOTING—Senators Crain, Motley—2.

Senator Edwards moved to excuse Senator Motley, and moved the previous question on the motion.

Seconded.

The main question ordered by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—17.

NAYS—Senators Burton, Ford, Grace, McLeary, McCulloch, Stephens, Storey, Terrell, Thompson—9.

NOT VOTING—Senators Douglass, McCormick, Motley—3.

Senator Motley was then excused, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—18.

NAYS—Senators Burton, Ford, Grace, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—11.

NOT VOTING—Senator Motley—1.

Senator Hobby moved the previous question on the passage of the bill.

Seconded.

The main question ordered by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—18.

NAYS—Senators Burton, Ford, Grace, McLeary, McCormick, McCulloch, Smith, Thompson—8.

NOT VOTING—Senators Stephens, Storey, Terrell, and who refused to vote—3.

The bill was then read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin Moore, Piner, Ripetoe, Wortham—18.

NAYS—Senators Burton, Ford, Grace, McLeary, McCormick, McCulloch, Smith, Terrell, Thompson—9.

NOT VOTING—Senators Stephens, Storey, who declined to vote—2.

Senator Ledbetter moved to adjourn until to-morrow morning at 9 o'clock.

Carried, and the Senate so adjourned.

#### EIGHTY-FOURTH DAY.

SENATE CHAMBER, }  
AUSTIN, TEXAS, July 26, 1876. }

Senate met pursuant to adjournment, President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

Senator Piner presented the petition of the bar of Collin county, "asking for the passage of a law authorizing the holding of a special term of the District Court of Collin county," giving many reasons why their request should be granted.